A

DISCOURSE

of God's ways of

DISPOSING

OF

KINGDOMS.

By the Bishop of S. ASAPH, Lord Almoner to THEIR MAJESTIES.

UMI

A

DISCOURSE

of God's ways of

DISPOSING

OF

KINGDOMS.

A DISCOURSE of God's ways of DISPOSING OF KINGDOMS.

PART I.

By the Bishop of S. ASAPH, Lord Almoner to THEIR MAJESTIES.

King *Charles* I. Works p. 711. in his Letter to his Son. *With God I would have you begin and end, who is King of Kings, the Soverain disposer of the Kingdoms of the World, who putteth down one and setteth up another.*

Publish'd by Authority.

LONDON,

Printed by *H. Hills*, for *Thomas Jones*, at the *White-Horse*, without *Temple-Bar*. 1691.

A

DISCOURSE

of God's ways of

DISPOSING

OF

KINGDOMS

PART I.

By the Rhap. of S. ASAPH, Lord Almoner.

HIER MAJESTIES

Ring Charles I. Works p. 211. in his Letter to his Son [illegible]

[illegible]

Published by Authority.

LONDON,

Printed by [illegible] at the White-Horse, without Temple Bar. 1691.

TO THE READER:

HAVING had the honor to preach before their Majesties on the 5th day of November last, and afterward to be commanded by Them to print my Sermon, which contain'd many things concerning the late Revolution; I humbly crav'd leave to put my thoughts into another form; wherein I might, not only say those things more at large, but also prove what I had said in that Sermon; knowing I could do it by such Authorities as would be sufficient to clear me from that charge of Singularity, or Novelty which hath been too liberally thrown upon others that have preach'd or written on that subject.

I know I am not better then my Brethren that have been thus us'd, and therefore I expect to be treated no better then they have been. But I think I have taken a Course to prevent the bringing of any charge against me on that head. It will appear that I have deliver'd no other Doctrin then that which has been receiv'd and past for current in the Church of England, ever since the Reformation. And I hope it will be some ser-

vice to that excellent Church, to shew that what some have reported of her Doctrins, hath had no other ground, but the mistakes of some of her Sons; who, tho excellent men, and such as our Church may justly glory of upon other accounts, yet I must needs say have judg'd tombastily of this matter; and seem to be too jealous of themselves, for fear some wordly consideration should strike in with those second thoughts that would make them judge otherwise.

We are not to answer for the private Opinions of all that are or have been of our Communion. But, God be prais'd we may safely stand by the Doctrins of our Church, and the most approv'd Writers thereof. They are those that I have endeavour'd to set forth in this following Discourse. While we adhere to them, it will be for the honor of our Church; that as it hath been always accounted the Bulwark of the Protestant Religion, and prov'd it self to be so most eminently in the last Reign; so it will appear to be the only unshaken strength of this Monarchy; especially by the encouragment it hath now under their Majesties Government, which I beseech God long to continue, to his Glory, and the peace and prosperity of these Kingdoms.

THE

THE CONTENTS OF CHAPTER I.

1. THE *Occasion of Psalm* LXXV. pag. 1.
2. *The Scope of the Words*, verſ. 6, 7. 1.
3. I. *That Power is from God.* 2.
4. II. *That he gives it Judicially.* 3.
5. *The Heads of the following Diſcourſe.* 4.

6. *Of the Inſtitution of Government* 5.
7. *Of the ſeveral ſorts of it.* 6.

I. Of God's Conferring it on Perſons.
1ſt. Immediately.

8. I. *In the Patriarchical times.* 7.
9. 2. *In the Jewiſh Theocracy.* 9.
10. 3. *In their hereditary Kingdom.* 9.
11. 2dly. *Mediately by the Peoples conſent.* 10.
12. 1ſt. *On Account of Merit,* 11.
Thus eſpecially on Founders of Nations. 11.
13. *On firſt Planters.* 12.
14. *On Reſtorers and Deliverers.* 12.
15. 2dly. *On Account of Favour.* 14.

The Contents of Chapter I.

16. *In the first Elections of Kings.* pag. 14.
21. *In the hereditary Successions from them.* 15.
22. *In Elective Kingdoms.* 16.
23. *In Free States.* 16.
24. II. *Of God's Transferring it from one to another.* 17.
25. *That this is the Act of God.* 18.
26. *By giving one a Conquest over the other.* 19.
27. *That God doth this Judicially.* 21.
28. I. *By way of Judgment on King or People.* 21.
29. *Particularly on Kings.* 23.
29. *For neglect of Government.* 23.
30. *For Oppressing their People.* 24.
31. *This is Just and necessary.* 25.
32. II. *By way of Justice, for.* 27.
33. 1. *War is an Appeal to God.* 28.
34. 2. *It is proper to Kings.* 29.
35. 3. *'Tis lawful when they have Just Cause.* 33.
36. *Great danger makes it Necessary.* 34.
37. *Especially when also Religion is concern'd.* 37.
38. *When Religion is oppress in another Kingdom.* 39.
39. *Example of this in Queen* Elizabeth's *time.* 42.
40. *Especially, where it is settl'd by Law.* 45.
41. 4. *Such a Cause makes a Just Conquest,* 49.
42. *And that Conquest gives Right.* 50.
43. *Doubted when the Cause is certainly unjust,* 55.
44. *No doubt when the Cause is certainly Just,* 58.
45. *A doubtful Cause is enough for the Prince in Possession.* 59.
46. *The People ought to be satisfi'd with this.* 61.
47. *But much more when they see a certain Just Cause.* 33.
48. *When the Cause is for their sake, it is to them not a Conquest, but a Deliverance.* 66.

A DISCOURSE of God's ways of DISPOSING OF KINGDOMS.

Psalm LXXV. *verses 6, 7.*

For Promotion cometh neither from the East, nor from the West, nor from the South.
But God is the Judge; He putteth down one, and setteth up another.

§. 1. THIS Psalm was compos'd by *David* (as I take it,) considering the State of Affairs that was immediatly after *Saul*'s death: (a) When (as it is here, *ver.* 3.) *the Land, and the Inhabiters thereof* were

The Occasion of this Psalm.

(a) Psal. LXXV. 3.

were diſſolv'd, and even ready to fall; but that *David* bore up the *Pillars* of it.

The ſcope of theſe words

§. 2. Then, being in the neareſt proſpect of the Kingdom, he called to remembrance what he had formerly ſaid, what warnings he hadgiven, to thoſe Fools and wicked men, that laid about them in *Saul*'s time, as if there would be no end of it. (*b*) *I ſaid to the fools, deal not ſo fooliſhly; and to the wicked lift not up your horn.* Do not bear your ſelves ſo high, as it ſeems they did on that unhappy King's Favor. Do not *boaſt* your ſelves of the power you have *to do* (*c*) *miſchief*; That's the common uſe of Power, when it comes in the hands of *Fools* and *wicked men.*

(*b*) Pſal. LXXV. 4 5.

(*c*) Pſal. LII. 1.

I. That all Power is from God.

§. 3. To teach them better, *David* ſhews whence it is that Power comes into Mens hands; and upon what terms they are to hold it. Theſe two things the Pſalmiſt ſhews in the words of this Text.

Firſt, for the true Original of Power.

This in *David*'s time all men took to be from Heaven, but from whom there, many knew not. The Eaſtern Nations, who were generally

generally given to Aſtrology, took it to come from their Stars; and eſpecially from the Sun, which was the chief Object of their Worſhip. The Pſalmiſt tells them, No. *Promotion cometh not* that way: Neither from the Planet's riſing, nor ſetting, nor from its exaltation in mid-Heaven. That's the meaning of the words, *from the Eaſt, nor from the Weſt, nor from the South.*

From the North of the Zodiac, or from per the hidden part under the Horizon, they never thought it to come. And (as (*a*) ſome think) that's the reaſon why that part of Heaven is not mention'd.

(*a*) In *Aben-Ezra.*

But the Pſalmiſt might have another Reaſon to himſelf, why he did not think fit to ſay, it comes not from the North. For there (as he ſaith (*b*) elſewhere) *on the North-ſide* of *Jeruſalem* was *Mount Sion, the City of the great King* of Heaven and Earth. There in *David*'s time was the Tabernacle, and afterwards there was the Temple, in which the Mercy-ſeat between the Cherubims was the place of the Symbolical Preſence of God.

(*b*) Pſal. XLVIII. 1.

It

(a) Esa. XIV. 13. It was that (a) *a Mountain of the Congregation in the sides of the North*, where God ordinarily *sate* to hear the Prayers of his people. And where, in case of any Oppression, he *stood* to (b) *judge among the Gods*. Could *David* say *Promotion* comes not from thence? No, he saith the contrary in the following words; *for God is the Judge*: plainly shewing, that to him Kings owe their Authority. But

(b) Psal. LXXXII. 1.

II. That he gives it Judicially.

§. 4. Secondly, It is to him as *Judge*. He gives it Judicially. And so to him they are to account for it. Them that use their Power well, he rewards for it; and that ordinarily, with a long and prosperous Reign. Them that abuse their Trust, he as ordinarily deprives; and gives that power into other hands; as it follows, *He puts down one, and sets up another.*

This is the plain meaning of the Psalmist's words; which will be of great use in the following discourse. Now for the matters contain'd in it.

The Heads of the following Discourse.

§. 5. First, *Promotion*, or Exaltation to power; and Secondly, the transferring of it from

from *one* to *another*, (as from *Saul* to *David* in the Case before us,) both these are ascrib'd here to God: and that by Him that was best able to judge of these matters.

David, as being a Prophet inspir'd, best knew the mind of God, and his ways of dealing with Mankind. And *David*, as being call'd to be a King by the immediate designation of God, best knew what belong'd to that dignity. His word therefore is on all accounts a sufficient proof.

But that what he says may be the better understood, I shall shew, First in General, and then in Sundry particulars, that 'tis the Prerogative of God, by which He acts, both in the disposing, and also in the transferring of Kingdoms.

Secondly, I shall shew that the work of God in bringing His Majesty into this Kingdom; was truly God's making use of the latter branch of his Prerogative, in *putting down one, and setting up another.*

Lastly,

Laſtly, That it ought to be acknowledg'd by us; not only in an humble Submiſſion to their Majeſties Government, but alſo by paying them all thoſe Duties which Subjects owe to their Prince, according to the word of God, and the Laws of this Kingdom.

Of the Inſtitution of Government.

§. 6. Firſt, for the Original of Government. Of this the leſs needs to be ſaid, becauſe it is ſo plainly declar'd, and ſo often repeated in Scripture. It is declar'd of Government in general, that it is the (*a*) *Ordinance of God*; that is, it is a thing of Divine Inſtitution. It is not only permitted by his Providence, but it is appointed by his Will, that there ſhould be a Government among Men. It is the way he hath provided for the good of human Society. And therefore whoſoever is againſt it, he is an Enemy to human Society.

(*a*) Rom. XIII. 1, 2.

But becauſe all Mankind cannot be under any one Government, no more than they can all be one People, or one Nation; therefore the Apoſtle goes farther, to apply this to the ſeveral

ſeveral Governments of the ſeveral Nations and Countries.

The (*a*) *Powers that be are of God*: That is, the ſeveral Kingdoms and States, even all that are in the World, all have their Authority from God. And *whoſoever* diſobeys or *reſiſts*, the publick Order and Government of the Kingdom or State where he lives, he diſobeys or (*b*) *reſiſts the Ordinance of God*; and λήμψεται, he ſhall be call'd to account for it. The Magiſtrate may puniſh him if he will. He hath the *Sword* of God committed to him for that purpoſe, as well for the puniſhment of this as of all other Enormities. But for this, if the Magiſtrate will not, or cannot, God will ſurely do it, firſt or laſt; *He that reſiſts, ſhall receive to himſelf Damnation.* Here is a plain Declaration of the Will of God, as to the Inſtitution of Government in general. But now as to the conferring of it on particular Perſons.

(*b*) Rom. Xiii. 1.

(*c*) Verſ. 2.

God's ways of conferring Soverain Power.

§. 8. I. This at firſt was from God, we are ſure, becauſe it was from the beginning of Mankind. The firſt Men that were born into the World, were all of *Adam*'s Family. And ſo were all that came after, till ſome of them went forth, as *Cain* did to make Families for

I. Immediately, in the Patriarchs times.

themſelves. Till then, they were govern'd by him that was the common Father of Mankind.

Noah was the Father of all them that liv'd after the Flood; and he was their Governor too, till his Children were too many to live in one Country, or under one Government, and then they branch'd themſelves into *Nations*, (*a*) *among whom the Earth was divided.*

(*a*) Gen. X. 32.

When the Fathers or Heads of ſome of thoſe Nations made *Conqueſts* upon one another, as *Nimrod* did on the Nations about him, who was therefore call'd (*b*) *a mighty hunter before the Lord*; or when they were otherwiſe incorporated together; theſe made the ancient great Monarchies, whereof the *Aſſyrian* and *Egyptian* are famous in ancient Hiſtory.

(*b*) Gen. X. 9.

Other of thoſe Nations, or rather great Families, continu'd in their ancient way of Patriarchical Government. Particularly in that Line out of which God choſe his peculiar People; *Abraham* was (*c*) *a mighty Prince* in his days: But all his Subjects were of his Family, out of which proceeded (*d*) *many Nations.* From his Son *Iſaac*, there came (*e*) *two Nations of People*; one of them by *Eſau* Father of *Edom*, the other by *Jacob* the Father of *Iſrael*; who for their

(*c*) Gen. Xxi i. 6.

(*d*) Gen. Xvi 5.

(*e*) Gen. Xxv. 23.

times

times also govern'd those Families or Nations.

When *Jacob* and all his Family went down into *Egypt*, there ended their Patriarchical Government. After which, being Subjects to the King of that Country, they were brought into a long and sore Bondage, which (*a*) *made their Lives bitter to them* for many Generations.

(*a*) Exod. I. 14.

§. 9. 2. From this God deliver'd them by the hand of *Moses*. And to shew them how they ought to value this mercy, from thence he entitl'd himself to be (*b*) their King, and dated the (*c*) beginning of his Reign. As such he gave them Laws, according to which they were govern'd by his Vicegerents. First his Servant *Moses*, then *Joshua*, and then all the Judges successively. They were all such as he either nam'd to them himself, or gave such signs of his chusing them as were equivalent to a Nomination.

2. In the Times of the *Theocracy*.

(*b*) Exod. Xix. 4, 5. 2 Sam. Xii. 12.

(*c*) Psal. Cxxiv. 1, 2

§. 10. 3. This *Theocracy*, as we call it, continu'd from their coming up out of *Egypt*, till such time as God, at his Peoples desire, gave them (*d*) *a King to judge them like all the Nations*. How was that? In most Nations we read of at that time, and perhaps in some from the Confusion of Tongues, it was the Peoples part to chuse who should rule over them: And that

3. In the Hereditary Kingdom of *Israel*.

(*d*) 1 Sam. Viii. 5.

either upon every Vacancy, as in Elective Kingdoms; or at the first, once for all, as in those that were Hereditary. God was pleas'd so far to grant his Peoples Request, that they should be an Hereditary Kingdom: But for the first King of the reigning Line, God would have the chusing of him himself. And accordingly, first he chose *Saul*, whose (*a*) Kingdom should have been Hereditary, if he had not hindred it by his Disobedience to God. Then God made choice of *David*, a Man (*b*) *after his own heart*; and *David* having many Sons, among them all God (*c*) chose *Solomon* to continue the Succession in him and his Heirs, as he did till the *Babylonian* Captivity.

(*a*) 1 Sam. Xiii. 13.

(*b*) Ver. 14.

(*c*) 1 Chron. Xxviii. 5.

This Account that I have given, runs through half the Age of the World. And so far, I think, it is worth the observing, that there was no other standing Government in that Nation, which God chose to be his peculiar People, but what was administred by single Persons. And those Persons Title to the Government was either Patriarchical, or by Divine Nomination: Both which ways of coming into Power were so wholly of God, that the People had nothing to do, but to accept the Choice of God, and to submit to it. §. 11.

§. 11. II. In other Nations indeed, that did not keep up the Patriarchical Right, there the Peoples Consent was required, except in the Case of Conquest before-mention'd. And this Consent being merely an human Act, it may seem that the Authority it gives, is not, as we are here taught, from God only.

II. Mediatly by consent of the People.

But to set this Matter right, we are to consider by what Motives it is, that the People are generally led, to chuse any one to rule over them. All their Motives may be reduc'd to these two; either Merit, or Favor. If there be any other, they are but Compositions of these.

And that.

§. 12. I. The first Choise of Kings I conceive to have been made on account of Merit, the People being led to it by a sense of the Benefits they had receiv'd. I judge so from that which having been already shewn I take now for granted, that the Earth was peopl'd at first by great Families. Now when those, by Oppression of powerful Neighbors, or by Civil Discord among themselves, came to be in great Distress, such as made them see the Necessity of being united in greater Bodies for their own Preservation; those Heroic Men, that shew'd them,

I. On account of Merit. Thus especially on Founders of Nations.

them the way of it, and that brought them under Government and Laws, these were called the FOUNDERS of the Nations. Such was *Moses* among the People of *Israel*. When he had brought them out of *Egypt*, they own'd this as a Title to Government, that he would have had, (*a*) even without Divine Nomination. Such was *Cecrops* among the *Athenians*, and *Romulus* among the *Romans*, and other first Kings in other Nations; who were so sensible of the Benefits that they receiv'd by them, that they not only believ'd them sent from God, but they made them Gods themselves, and worship'd them, as the Tutelar Deities of their Nations.

(*a*) Exod. Xxxii. 1.

On first Planters.

§. 13. Next to these, and something like them, were the first Planters of Colonies: Such as *Cadmus* was at *Thebes*, *Æneas* in *Latium*, and the like. In *England* such were *Hengist*, and the rest that began the Seven Kingdoms of the *Saxon* Heptarchy. From one of these, namely, from *Cerdic* King of the *West-Saxons*, the Descent of our Royal Family is unquestionable.

On Restorers and Deliverers.

§. 14. But the most like to Founders are they whom God raises up to be the Restorers and Deliverers of a People, when they are either

ther brought low by Tyranny and Oppreſſion, or when they are torn in pieces by Factions among themſelves. Thus when the *Jews* were oppreſs'd by *Antiochus Epiphanes*, who had Right indeed to a Tribute from that People, but not content with that, would uſurp an abſolute Dominion over them; *Mattathias* and his Sons ſtood up for their Religion and Liberty; and by aſſerting both, they ſo won the People to themſelves, that with their Conſent (*a*) the Government was eſtabliſht in that Family. And thus when the *Roman* State, being torn by a long Civil War had even bled it ſelf to death, (it had certainly expir'd, if it had been left to it ſelf,) *Auguſtus* came in, and not only bound up the Wounds, but put, as it were, a new Soul into the Body; He made it not only live, but flouriſh, by his great Care and Wiſdom, and Induſtry; which ſo oblig'd the People, that they even forc'd him to accept of the Empire. Theſe were ſuch Benefits to Mankind, as whoſoever was enabl'd to do, it was as if God had put a Glory about his Head; it ſo markt him out to the People, that they could not go beſide him in their Choiſe; they took him as one already choſen of God.

(*a*) 1 Macc. XIV. 41, 49.

§. 15.

II. On account of Favor.

§. 15. II. Where Kings have been choſen on account of leſs Benefits, there have been grains of Favor thrown in to make up weight. Favor is a Motive, (as I have ſhewn,) which works as well ſingly, as when it is join'd with any other Conſideration. For it is grounded, not ſo much upon real Worth, as upon the Opinion they have conceiv'd of any Perſon. It is Opinion that governs the unthinking ſort of Men, which are far the greateſt part of the Body of a Nation. And when all theſe go together, they are like the Atoms of Air, which though taken apart they are too light to be felt, yet being gather'd into a Wind, they are too ſtrong to be withſtood. But he that *brings the Winds out of his Treaſures*, he alſo governs theſe, and turns them which way he pleaſes. It is the ſame great God, that (*a*) *rules the roaring Waves of the Sea, and the* (*b*) *Multitude of the People.*

(*a*) Pſal. Lxv. 7.

(*b*) והמון לאמים

In the firſt Elections of Kings.

§. 16. For Examples of this in the Electing of Kings, we are not to look for them in Scripture, becauſe all the Kings that God ſet over his People were, as I have ſhewn, by Divine Nomination. But ſince there were other ways by which Kings were made in other Na-

Nations; and since we are sure the *Psalmist's* words are as true of these, as of any that we read of in Scripture; therefore I conclude, that in these also *Promotion* came from God, by those ways (*a*) which his Providence us'd in setting up the first Kings in other Nations.

(*a*) King *James's* Works, *pag.* 612. What God did directly by his Word and Oracle among his own People in the Election of Kings, he did it only by his secret working in the Hearts of other Nations, though themselves knew not whence those Motions came which God by his Finger writ in their Hearts.

In Hereditary Successions.

S. 21. This Doctrin is as true of the following Kings that came in by Hereditary Succession, where that way was taken in the Constitution of any Kingdom. These Kings are indeed so much more the Creatures of God, as they owe less to Men than any others; except only those that came in by Patriarchical Right, or by Divine Nomination. There was the Act of Man in that general Consent by which their Ancestors came first into the Government. And by this Consent the Government being made Hereditary, there was no need of any other Human Act for the Continuance of it in their Family. There is

nothing more Sacred among Men than a Right of Inheritance. But for the Derivation of that Right to their Persons, they owe it only to God: (*a*) For it comes to them by their Birth, and they owe their Birth only to God.

(*a*) *Iren.* adv. Hæres. V. 24. *Cujus jussu homines nascuntur, hujus jussu & Reges constituuntur.* By whose Command they are born Men, by his Command they are also made Kings.

Tertull. Apologet. c. 30. *Inde est Imperator unde & homo antequam Imperator; inde Potestas illi unde & Spiritus.* He is from thence made Emperor from whence he has also his Breath.

In Elective Kingdoms.

S. 22. In those Kingdoms wherein the Succession is continu'd by a new Election upon every Vacancy, or wherein a new Election is made upon the Extinguishing of the Royal Family, the Person on whom the Election falls in either Case, ows his promotion to God, from whom it comes the same way to him, as it came to his first Predecessor in that Kingdom.

In Free States.

S. 23. I do not speak all this while of Free States or Commonwealths, because I do not believe there was any such Government known in the World in *David's* time. For as we read of no such in Scripture, so it is agreed among

among the (*a*) moſt learned Heathen Writers, that the firſt Government every where was by Kings. But whereſoever, upon the Ceſſion of Kings, or the ceaſing of the Royal Family, or the like, there has followed a Change of the Government, from a Monarchy to a Free State or Commonwealth; there alſo the Sovereign Power was of God; and they that were inveſted with it had their Promotion from him, by that Act of his Providence by which the Change was made, namely, by the Conſent of the People. And the ſame way the Providence of God brings in others to ſucceed them in their Power from time to time.

(*a*) *Plato* de Legibus iii. *Ariſtot.* Polit. l. 3. *Polyb.* Hiſt. vi. There are others in *Sanderſon.* de Oblig. Conſc. vii. 16.

It has been prov'd in all ſorts of Government, that as the Sovereign Power in every Country or Nation is of God, ſo they that are inveſted with it, whether one or many, are in the place of God, and have their *Promotion* from him: which was the firſt Part of the Doctrin of this Text.

S. 24. The 2d. Part is, that the Transferring of this Power from one to another, is the Act of God. And this he does proceeding Judicially, as being *Judge*, ſaith our *Pſalmiſt*.

Of Transferring the Power from one to another.

Here are two things to be consider'd. First, that it is God that does this; and Secondly, that he does it Judicially.

That this is the Act of God.

S. 25. For the first of these, that the transferring of power from one to another is the Act God, this adds much to that which went before in the Text. It shews that God has such an Interest in the disposing of power, as none can pretend to but himself.

Men have their part in setting up what they cannot put down again. It is a Woman's Consent makes a Man be her Husband, the Fellows of a Colledge chuse one to be their Head, a Corporation chuse one to be their Mayor: All these do only chuse the person, they do not give him the Authority. It is the Law that gives that, and that Law so binds their hands that they cannot undo what they have done.

No more can a Nation (*a*) undo its own Act, in chusing Men into Sovereign power. I do not say but they may chuse Men into Government, expresly with that Condition, that they shall be accountable to the people; and then the Government remains in the Body of the Nation, it is that which we properly

call

call a Commonwealth. But for Sovereign Princes and Kings, even where they are chosen by the Nation; and much more in Hereditary Kingdoms, as they have their Authority from God, so they are only (*a*) accountable to him. For he is *the only Potentate, King of Kings*, and *Lord of Lords*. He alone both makes Kings by his Sovereign Power, and by the same he can unmake them when he pleases.

(*a*) This is Protestant Doctrin. See *Sanderson* de Oblig. Conscient. Vii. 20. *Grot.* de Jure B. & P. l. 3. 8: *Pufendorf.* de Jure Nat. & Gent. Vii. 6. 1. Popish Writers, as *Bellarmin*, *Becan*, &c. teach otherwise. *Suarez* de Legibus III. 4. 6 mentioning that Doctrin, that a People may depose their King, saith it is *altogether false*; but corrects this afterward, saying, *nisi fortasse in Tyrannidem declinet*, unless he happen to become a Tyrant; of which this Jesuit allows the People to be Judge. He might as well have agreed with his Fellows.

Nay more than so, *He puts down one, and sets up another.* Both the Words imply something of an High Place, and here they are used of Civil Government or Dominion. Of this it is said, that God so deprives one of it, as that he advances another in his stead.

S. 26. This can be understood of nothing else but the Conquest of one Prince over another. For what one resigns by a Voluntary Act, he is said to lay down, or to give it up to another. But *putting down* is the Act of a Superior,

By giving one a Conquest over the other.

perior, by which one's place is taken from him againſt his Will. Now God being the Superior that does this by the Act of his Providence, it muſt be ſuch an Act as gives the Power from *one* againſt his Will, to *another* whom God is pleaſed to ſet up in his ſtead. Thus in giving *one* Prince a Conqueſt over *another*, he thereby puts one in Poſſeſſion of the other's Dominions, he makes the other's Subjects become his Subjects, or his Slaves, accordingly as they come in upon Conditions, or at the Will of the Conqueror. In ſhort, he giveth him the whole Right and Power of the other Prince.

But how can this be? For, if the other had a Right to his Kingdom, it cannot be taken from him without Injury: and that cannot ordinarily be without a War, and all the Evils contained in it; which are ſo much Inhumanity and Impiety together, that whoſoever has a true Notion of God, cannot think he would approve of things ſo contrary to his Juſtice and Goodneſs; much leſs that he would be the Author of them, as he muſt be according to this Doctrin.

Thus

God gives a Conqueſt Judicially.

*S.*27. Thus ſome may object. But in Anſwer to this, Conſider how we judge of the Actions of Kings, when they take away the Lives and Eſtates of Offenders. To do the ſame things would be Murder and Robbery in private Men. But we know they are Acts of Judgment in them that have the power of the Sword; and they would not be faithful to their Truſt if they did not do them. In this Text we are taught to think ſo of God, that when *he puts down one, and ſets up another*, he doth it as a *Judge*, even (*a*) *Judge among Gods*. He deals with them, as they ought to do with their Subjects. Think of that, and you will not ſtick at this Objection.

(*a*) Pſal. Lxxxii. 1.

As a *Judge*, he adminiſtreth *Judgment and Juſtice* both which are ſaid to be *the habitation of his Throne*. Particularly, when he decrees a Conqueſt of any King or Kingdom; it is either as a *Judgment* on them for Offences againſt himſelf, or it is by way of *Juſtice* to others whom they have injured. And both theſe ways he does what is beſt, for the glory of God, and the good of Mankind.

1. By way of Judgment.

*S.*28. Firſt by way of *Judgment*, or puniſhment for the Sins of a *Prince*, or *People*, or both;

both; God ordinarily ſuffers a Rebellion to ariſe within the Kingdom, or a Foreign power to break in upon it. And though theſe Rebels, or this Foreign power, may be ſuch as have receiv'd no provocation, nor mind nothing elſe but Dominion and Prey: yet God makes uſe of them in this Caſe, as he doth of an Inundation at other times; He lets them looſe, to over-run, and waſte, and ſpoil the Country; to overthrow the Government, and to make themſelves Lords of it; and therein to execute God's Judgment on that wicked Prince or Nation.

(a) Pſal. Lxxv. 8.

This was *Saul*'s Caſe, on which (a) this *Pſalm* ſeems to have been made. He had driven out *David*, the Terror of the *Philiſtines*; and put the Prieſts to death for relieving him: for which Injuſtice and Cruelty, together with his other Sins, God brought in the *Philiſtines* upon him, and made him feel the want of thoſe brave Men that he had driven away; for in the day of Battel he had none to ſtand by him, and ſo he loſt both his Kingdom and his Life.

So

On Kings.

§. 29. So it commonly happens to those Kings that, living in a *setled* (a) *Kingdom*, will not govern according to the Laws thereof. It is a breach of Faith, not only to their people, but to (b) God also, where they are sworn to the observing of Laws (c). And though they are not therefore to be deposed by the people, yet they cannot escape the vengeance of God, who ordinarily punishes them with the natural effects of their Sin.

(a) King *James's* Works, *pag.* 531. Every King, in a *setled* Kingdom, is bound to observe the Paction made to his People by his Laws, in framing his Government agreeable thereunto. *Ib.* A King, governing in a *setled* Kingdom, leaves to be a King, and degenerates into a Tyrant, as soon as he leaves off to govern according to his Laws: in which Case, the King's Conscience may speak to him, as the poor Widow said to *Philip* of *Macedon*, either govern according to your Law, *Aut ne Rex fis.*

(b) King *James's* Works, *pag.* 553. I was sworn to maintain the Laws of the Land, and therefore I had been perjured if I had altered it. *Ib. pag.* 531. All Kings that are not Tyrants or perjured, will be glad to bind themselves within the Limits of their Laws. — And they that perswade them the contrary are Vipers and Pests, both against them, and the Commonwealth.

(c) *Pufendorf. de Leg. Nat. & Gent. VII.* 6. 10. If he promiseth at his Coronation to govern according to Laws, and breaks his Promise, he is forsworn: and yet that doth not dissolve his Government. King *James's* Works, *pag.* 531. Though no Christian ought to allow any Rebellion of People against their Prince, yet doth God never leave Kings unpunished when they transgress these Limits.

For Neglect of Government.

§. 30. Thus in the Case of not execution of Laws, especially those that are a check upon Irreligion and Immorality, the very neglect of the due administration of Justice, though

it seems to be nothing at present, yet in time it will destroy the Government. It bringeth the people into a Contempt of Authority, and they are not much to be blamed for it, for what are they the better for such a Government? It lets them loose to all manner of Sins, many of which are destructive to Society, and all expose them to the wrath of God. Both these ways they are disposed for Rebellion at home; and so enfeebled withal, that they cannot withstand a Foreign Enemy. In this corrupt and weak Estate of a Government, it is almost impossible that there should not be an Alteration.

Foroppressing the People.

S. 31. On the other hand, if a Prince will have no Law but his Will, if he tramples and oppresseth his people, their patience will not hold out always, they will at one time or other shew themselves to be but Men. At least they will have no heart to fight for their Oppressor. So that if a Foreign Enemy breaks in upon him, he is gone without remedy, unless God interpose. But how can that be, when *God is Judge* himself? Should the Judge hinder the doing of Justice? It is God's Work that Foreigner comes to do,

Howbeit

Howbeit he (a) *meaneth not so.* He means nothing perhaps, but the satisfying of his own Lust. But though he knoweth it not, he is sent in God's Message: for which all things being prepared by natural Causes, and God not hindering his own Work, but rather hastening it, no wonder that it succeeds, and that oftentimes very easily. (a) Esay X. 7.

§. 32. If there seems in all this to be any hard measure put upon Kings, it ought to be consider'd how much harder it would be upon the People, if it were otherwise. When it happens (as it doth sometimes, and that especially for the Sins of a Nation,) that they come to be under weak or wicked Kings; even these they must not *resist*, God hath (b) taught them otherwise. What then? Must they be left to the Wills of these Tyrants? Or of them that govern weak Kings, which is commonly worse? Must they endure all the load of Oppression that these will lay upon them? that is, for a few Mens pleasure must a Nation be made miserable? This is far from God's design in the Institution of Government. He makes Kings his *Mini-* This is Just and Necessary. (b) Rom. XIII. 2.

(a) Rom. XIII. 4.

Miniſters (a) *for the good* of their People. If any will take that Office upon them, they muſt behave themſelves accordingly. Otherwiſe, if they take it as given them only for themſelves, it is ſuch a breach of Truſt, that God cannot but puniſh them for it. But how ſhould he do this, ſo as that the puniſhment may have its effect, in warning others not to tranſgreſs in like manner? He cannot do this better, than by making Men his Inſtruments in it. And therefore it is that God, though he has infinite ways, yet commonly chuſes to employ Men in this Service. He either finds them at home, that are *not afraid* (b) *of the Power* as they ought to be: or he brings them in from Foreign Countries, *Whiſtling for the Fly out of* Egypt, *or the Bee out of the Land of* (c) Aſſyria; In plain words, ſtirring up a *Pharaoh* or a *Nebuchadnezzar* againſt them. God may employ ſuch if he will, though none is too good for this work, to execute his righteous Judgments. And when God doth his work by their hands, whatſoever the Inſtruments may be, the Cauſe being ſo Juſt, and ſo evident as we have

(b) Rom. XIII. 3.

(c) Eſay VII. 17.

have ſuppoſed; *All Men that ſee it will ſay, Doubtleſs* (*a*) *there is a God that judges on the Earth* (*b*).

(*a*) Pſal. Lvii. 11.

(*b*) When *Don Pedro* King of *Caſtile*, by his Tyranny, had ſo loſt himſelf at home, and gained ſo many Enemies abroad, that his Baſtard Brother, being ſet up againſt him by ſome of the Neighbouring Kings, had driven him out of his Kingdom without Blood; he came to our Black Prince, who was then at *Bourdeaux*, and deſir'd him to bring him back into his Kingdom. The Prince called a Council upon it, where ſome of his Friends adviſed him to forbear: telling him the great Evils that this King had done; and adding this in the Concluſion, *All that he hath now to ſuffer, is but the Rod of God, ſent to chaſtiſe him, and to give Example to other Chriſtian Kings and Princes of the Earth that they may not do like him.* Froiſſart Hiſt. l. 231.

S. 33. 2. In the way of *Juſtice*, God acts as a *Judge* between two Soveraign Powers, when they bring their Cauſes before him; that is, when they make War upon one another. And when he ſeeth his time, that is, when he finds the Cauſe ripe for Judgment, if it proceeds ſo far, then he gives Sentence for him that is injur'd, againſt him that hath done the Injury. The effect of this Sentence is a juſt Conqueſt; and that is the other way in which God, proceeding Judicially, *puts down one, and ſets up another.*

2. God does this by way of Juſtice.

That this may be the better underſtood, there are four things to be conſider'd particularly.

First,

First, That War is an Appeal to the Justice of God.

Secondly, That none can be Parties to this, but they that are in Sovereign Power.

Thirdly, That to make it a just War, there must be a just and sufficient Cause.

Fourthly, That Conquest in such a War is a decisive Judgment of God, and gives *one* a Right to the Dominions that he has conquer'd from the *other*.

1. War is an Appeal to God.

S. 34. 1. That War is an Appeal to God, this appears in the nature of the thing. For it is the Act of two Parties that differ about their Right. And they put it upon such an issue as none but God can give. For both agree in effect, that the Right shall be adjudg'd to him that has the Victory. And it is God alone that is the Giver of (*a*) Victory.

(*a*) 1 Chron. Xxix. 11.

Therefore the Judgment of God has been solemnly appeal'd to by Nations when they were engaging in War. We see a notable Instance of this in the History of *Jephtha*. When his Country was invaded by the *Ammonites*, he stood up to defend it, with this express Declaration to their King: *I have not sinned against thee*, (*b*) *But thou dost me wrong*

(*b*) Judg. XI. 27.

to

to war against me, The Lord the Judge, be Judge this day between the Children of Israel *and the Children of* Ammon. The like Declarations are frequent in the ancient *Roman History.*

§. 35. 2, The Parties to this Appeal, are properly such as have no Superior but God. For them that have an earthly Superior, their Appeal lies to him as *God's Minister* (*a*) *attending continually on this very thing.* So that Subjects know whither to go on all occasions, whether for the asserting of their Rights, or reparation of Injuries. Their proper recourse is to *the* KING *as Supreme*, or to *those* (*b*) *that are Commissioned by him:* and these are to judge their Cause according to the LAW of the Land, which is the common Standard of Justice among private Men. 2. It is proper to Kings. (*a*) Rom. Xiii. 6. (*b*) 1 Pet. II. 13, 14.

It has been the manner indeed, (and perhaps is so still in some Nations,) that where Princes find a Cause too hard for them to decide, they give the Parties leave to end it in a Duel between themselves. But this, being an Appeal to God, is most strictly forbidden to Subjects in all well-order'd Kingdoms. And this very Usage shews that they have no Right to it otherwise, but only by their Princes permission. For

For Sovereign Princes, their Rights and their Injuries are inſeparably join'd with thoſe of their Kingdoms and Nations. And therefore they cannot paſs by Injuries, as private Men may, for Peace ſake: they muſt inſiſt on thoſe Rights with which God has entruſted them for others more than themſelves: it is not only their Intereſt, but their Duty ſo to do.

But all Princes being equally concern'd in this matter, what if a Queſtion ſhould ariſe between any two of them? or what if one ſhould invade the unqueſtionable Rights of the other? There is no ending the difference between them in the way of private Men: for they have no earthly Superior to flie to: they have nothing to do with one another's Laws: there is no adjuſting of their Damages and Coſts. Private Juſtice hath Scales to weigh out theſe things, (a) but publick Juſtice has none. Therefore Princes muſt have ſome other way to come by their Rights, or elſe they are in much worſe Caſe than private Men.

(a) Biſhop *Bramhall's* Works, p. 834. Private Right, and private Juſtice, is between particular Men. Publick Right, and publick Juſtice is between Commonwealths, as in a Foreign War.

But

But what Way should that be, by which Princes can be oblig'd against their Wills to do Right to one another? It must be by such a LAW as they all agree to, and by such a JUDGE as is their common Superior. Such a Law is that which we call the Law of Nations, (*b*) being made up of such Customs as are observ'd among Princes, as our Common Law is made up of those that are observ'd in this Kingdom. And for that common Superior, it is God alone, who styles himself the *King of Kings* and *Lord of Lords*. But as by the Law of Nations, the Way that Princes have for the ending of those differences among themselves which cannot be ended otherwise, is (*c*) by War. So this (as hath been already shewn) is an Appeal to God; it is the Way that Princes have to sue one another in his Court.

(*b*) See *Pufendorf.* de Jure Nat. & Gent. II. 3. 21. *Hooker* Eccles. Pol. I. Saith of the Law of Nations, that it can be no more prejudiced by the Laws of any Kingdom, than these can be by the Resolutions of private Men.

(*c*) See *Grot.* de Jure Belli & Pacis i. 2. 1. ad 5.

And he has therefore given them the Power of the (*d*) Sword; that they may use it, not only in Judging their own

(*d*) *Rom.* Xiii. 3, 4.

People, but in going to Law with other Princes.

This confirms that which has been said already, that Subjects have no Right to make War, without the leave of their Princes. For as God has given Princes the Power of the Sword, so he forbids it to Subjects, under a great Penalty, *They that take the Sword shall perish with the Sword.* And if he has not admitted them to be Parties in his Court, then it is certain that they cannot sue there; or if they do, they can acquire no Right by it. There is an Original Nullity in all their Proceedings.

Mat. xxvi. 52.

Dudley Digs of the unlawfulness of Subjects taking up Arms——*London*, 1675. §3. p. 75. Equals——if injur'd they require Satisfaction, and upon denial of it attempt to compass it by force, they are esteem'd by the Law of Reason and Nations, Just Enemies; whereas Subjects, if they make War upon their Sovereign, tho' when wrong'd, are worthily accounted Rebels.

See *Albericus Gentilis* de jure Belli B. fol. 1. from *Pomponius*, c. 118. tituli Digest. de verb. Signif. & *Ulpian.* c. 24. tit. de Captivis. See *Grot.* de Jure Belli & Pacis l. 3. 5. *Zouch* p. 30 de jure inter Gentes, l. 6.

As none have right of making War but they that are in Sovereign Power, so neither is it given to them that they may make

make what use of it they please: Particularly, they must not make War for the satisfying of their Lusts, Ambition, Covetousness, Vain-glory, or the like. He that troubles an earthly Court of Justice upon any litigious or trifling Account, ought to be condemned in good Costs. But if it appear he comes thither to defraud or to oppress, and that with a Colour of Justice, he must look for greater Severity. How much more ought Princes to dread the just Judgment of God, if they presume to Appeal to him for no Cause, or for such as he hates and abhors? Nay the righteous God will not hold him guiltless that hath Justice in his Cause, and yet in his Heart hath no such thing. Lawful things must be done lawfully. This Princes must look to, as they will answer it to God.

35. But as far as Man can judge, it is a Lawful War that is made for a just and sufficient Cause, which is the third Thing we are to consider. 3. When they have Just Cause.

To make a Cause just, in strictness of Law, a very small matter may suffice.

For no Man hath right to do another the smallest Injury, any more than he hath to do him the greatest. And Princes (*e*) have no other way than by War to right themselves for the least Injury. But if they are so tame to pass by the smallest Injuries, it will tempt ill-minded Men to go on, and to do greater. These and many other things may be said, to make it seem reasonable that Princes should insist upon the rigor of Justice.

(*e*) *Justinian* Institit. l. 2.

But after all this, we must remember we are Christians; and Christ hath given us other measures of Justice, according to which even Princes ought to govern themselves. He hath taught us to soften the rigor of Justice, with a Temperament of Goodness and Equity: And therefore not to run to Extremes, for the righting of any small, any tolerable Injury.

As in fear of great Danger.

§ 36. Especially War, that is such an Extreme as a wise and good Prince would not run into, if he could with a good Conscience live out of it. But that he cannot do without the leave of other Princes,

Princes, that do not consider it with so great an Aversation. They may make it Necessary for him to defend his just Rights, which he cannot forego without wronging his Conscience. They may force him to it, if they will, with insupportable Injuries. They may bring things to that pass, that the dangers of Peace may be worse than the mischiefs of War are like to be. If it once come to that, that there is more danger in sitting still, than there is like to be in the hazards of War, then it is time for them to draw the Sword, to whom it is given. And to do it first, if they can, to prevent the danger of doing it too late afterwards. They may do it *Se defendendo*, as well against great and imminent

(f) Lord *Bacon's* Works, *London* 1670, p. 2. in his Considerations on the War with *Spain*. The second of his three Just Grounds for that War, was a just Fear of Subverting our Civil Estate: And thereupon he says, That Wars preventive, upon just Fears, are true Defensives, as well as upon an actual Invasion.

In his Works, *London* 1638. among his *Sermones Fideles*, p. 189. he goes further, in saying, *justus metus imminentis periculi, etsi violentia aliqua non præcessit, proculdubio Belli causa est competens & legitima.* A just Fear of imminent Danger, tho there has not been any Violence used, is out of all Doubt a sufficient and lawful Cause of War.

danger,

(g) danger, as against open actual Invasion. They may do it in (h) defence of another King's Subjects, if they see themselves in extreme danger of suffering an intolerable Injury by his Oppression of his own People. And in these Cases if one Lawfully may, then it is certain he ought to do it. There needs no Scripture for this, it is the plain natural Law of Self-preservation.

(g) See *Grot. de Jure Belli & Pacis*, II. 20, 39. And *Pufendorf. de Jure Naturæ & Gentium*, VIII. 6. 3.

(h) *Alb. Gentilis* de Jure Belli, I. fol. C. 3. saith, it is *Defensio Utilis, quando verendum ne petamur*. And *Defensio Honesta quando alios tuemur*. He brings both these together, in the Case of Queen *Elizabeth*'s defending the *Dutch* against the King of *Spain*. *Ib.* & fol. D. he saith, She might justly do it; for if the Government of the *Netherlands* should be changed, and the King of *Spain* become Absolute, she her self would be in Danger of him. He saith this is *ipsa Ratio Imperiorum*.

See *Grot.* de Jure B. & P. II. 25. 8. And *Pufendorf.* de Jur. Nat. & Gent. VIII. 6. 14. ending.

They are so much the more oblig'd to this, when it is evident, that the threatning mischief is like to fall upon others, as well as themselves; and them such as they are bound in Honour and Conscience to protect and support. When by sitting still they should certainly expose, not only themselves to be ruin'd, but also their Friends and Allies to perish with them;

them; in that Case *Sævitia est voluisse mori*, it is a sort of bloody Peaceableness, it is cruelty to Mankind to go to that degree of suffering Injuries.

See *Grotius* de Jure Belli & Pacis II. 20. 40.

§ 37. But especially, when the Cause of God is concern'd, to whom we owe all things, and ought to venture all for his sake. Surely 'tis his Cause, when it touches Religion; which is all that is dear to him in this World. And tho' Religion it Self teaches us, *if it be possible, as much as in us lyes to live peaceably with all Men*; yet as 'tis there suppos'd there may be Cause to break the Peace; so it adds infinitely to that Cause when it comes to concern our Religion.

Especially when also Religion is concern'd.

Justinian Coll. VI. 7. 4. It is for this Cause that we have made so many Wars in *Africk* and *Italy*; namely, for Orthodoxy in Religion, and for the Liberty of our Subjects.

Bishop *Bilson* of the true difference between Subjection and Rebellion, *Oxford*, 1625. p. 381. in the Margin has this Position. Princes who bear the Sword may lawfully wage War for Religion.

I do not say, that Religion is to be propagated with the Sword. No, nor that (*i*) Princes may force it on their own

(*i*) *Grot.* de Jure Belli & Pacis II. 20. 48.

own Subjects; much leſs, upon other Princes or their Kingdoms. Theſe are things we juſtly abhor among thoſe inhumane (*k*) Doctrins and Practices by which Popery has diſtinguiſht it Self from all other Religions.

(*k*) See Concil. *Lateran.* IV. Canon. 4. that it is every Prince's duty to perſecute; and that in Caſe he neglect it, he thereby forfeits his Dominions.

See the Oath that every Popiſh Biſhop takes in the *Pontificale Romanum.* It has theſe words in it; I will perſecute all Hereticks and Schiſmaticks, Rebells to our Lord the Pope, and will fight againſt them to the utmoſt of my Power.

Suarez de Legibus III. 5. 8. ending. Saith, Heathen Kings cannot be deprived of their Power by War, unleſs they abuſe it to the injury of Chriſtian Religion, or the deſtruction of the Faithful that are under them, as is *the conſtant Opinion of Divines:* Meaning of them in the *Roman* Church.

Again III. 10. 6. If Infidels have the Faithful for their Subjects, and would turn them from the Faith or Obedience of the Church, —— then the Church has juſt Cauſe of War againſt them. But for Heretick Princes, he ſays there, that the Church has direct Power over them, and may deprive them in puniſhment of their Infidelity or Hereſie. *Ib.*

We have the more Cauſe to abhor it, for the ſake of a Prince that is the very Scandal of Popery; that hath not only exceeded all Heathen Cruelty, in the perſecuting of his own Proteſtant Subjects, but even forc'd a neighbour Prince

Prince to give him Game in his Dominions. His butchering the poor *Vaudois* was barbarity beyond all Example. We have reason to believe, he would have hunted here next: His Dogs had been upon us 'ere this time, if God had not wonderfully preserved us. God preserve us still from Kings that have that way of propagating Religion.

§ 38. Yet it may be a Question, whether such Tyrannies being used on the account of Religion, give a just Cause of War to other Princes of the same Religion. I speak now of Persecution in such Countries where their Religion is not established by Law. Q. when Religion suffers in another Kingdom.

It is certainly true which the Apostle says, *We are all Members of one and the same Body; and it is the duty of Members to have the same Care of one another; and whether one Member suffer, all the Members suffer with it; or one Member be honoured, all the Members rejoyce with it.* It is true that Christian Princes especially, as they have the charge of that part of Christ's Body that is in their own 1 Cor. Xii. 25, 26.

Dominions, so they ought to extend their Care and Compassion to their Fellow-Members elsewhere. But whether they ought to concern themselves for them so far as to make War on their account against their Kings by whom they are persecuted, nay whether they may lawfully do this, is a doubt that may deserve some farther Consideration.

The Christian Emperors seem to have made no doubt of this. For they made War, sometimes for no other Cause but that of Religion, against such Kings as persecuted the Christians in Their own Dominions: Sometimes, when they had other Causes of War, they preferr'd this before all the rest; which certainly they would not have done, if it had not weighed much in their Opinion

Justinian. Coll. VI. 7. 4. It is for this Cause that we have made so many Wars in *Africk*, and *Italy*; *viz.* for Orthodoxy in Religion, and for the liberty of our Subjects.

Of them of the Roman Communion there hath been enough already said to

to shew their Opinion of this Cause. They that are for propagating Religion by the Sword, cannot but think it a just Cause of War against any Prince, that he persecutes those of their Religion. We have a notable Instance of this in Cardinal *Pool*, who was one of the moderatest Papists of his age, and yet writ a Book, wherein he prest it most earnestly upon the Emperor *Charles* V. as his Duty, to give over his War with the *Turk*, and to turn his Arms against King *Henry* VIII. for oppressing the Catholicks in his Dominions. Pope *Pius* V. whom they have lately made a Saint, was as earnest with the Emperor *Maximilian*, and with the Kings of *Spain*, *France*, and *Portugal*. He would have them all make War against Queen *Elizabeth*, for persecuting his Catholicks; though she never touch'd one of them, till that Pope had forc'd her to it, by stirring them up to Rebellion against her with his famous Bull of Deprivation. See *Girolamo Catena's* Life of that Pope: And from him *Camden's* Annals, A. D. 1572.

Example in Q. *Elizabeths* time.

§ 39. For the Opinion of Protestants in this matter, we have it sufficiently declared in the Reign of that excellent Queen; who made War first or last against (*a*) all the Popish Princes in her neighborhood, for persecuting the Protestants in their Kingdoms. And herein, she was not only justified by the Pens of our greatest (*b*) Lawyers and (*c*) Divines, but she had also the approbation and assistance of (*d*) our Parliaments and Convocations.

(*a*) *Camdeni* Annales A.D. 1559.

In the Queen's Consultation concerning the demands of Succor for the Protestants of *Scotland* against the *French* faction in that Kingdom, saith *Pessimi Exempli videbatur Principem patrocinium præstare tumultuantibus Principis alterius Subditis: At Impietatis ejusdem Religionis cultoribus deesse.* It seem'd a thing of very ill Example for one Prince to Patronize another Prince's Subjects in Commotion: But it seem'd an Impious thing to be wanting to them of the same Religion. Whereupon the Resolution was taken, *Ejusdem Religionis Professoribus Subveniendum, & Gallos a Scotia exturbandos*: That the Professors of the same Religion must be helpt, and that the *French* must be driven out of *Scotland*.

Ib. A. D. 1562. When she sent the Earl of *Warwick* with an Army into *France*, she declared, she could not but do it, unless she would let the *Guises* do their pleasure with that young King and his Protestant Subjects. *Quodq; Maximum, ne suam Religionem, Securitatem, & Salutem, ignava prodere videretur*: And which was chiefly to be considered, least she should seem basely to betray her own Religion, Security, and Safety.

Ib.

Ib. A. D. 1585. After Deliberation whether she should take upon her the Protection of the States against the King of *Spain*, this was her Resolution, *Statuit & Christianæ Pietatis esse, afflictis Belgis ejusdem Religionis Cultoribus subvenire, & Prudentiæ, exitiosas hostium Machinationes prævertendo, populi sibi commissi incolumitati consulere——Hinc Belgarum patrocinium palam suscepit*——She did Resolve, that it was a duty of Christian Piety to help the Afflicted *Dutch*, being Professors of the same Religion; and that it was a point of Prudence by preventing the destructive designs of their Enemies, to provide for the Safety of her own People——*Thereupon she took upon her publickly the Protection of the* Dutch.

(*b*) *Albericus Gentilis* (her Professor of Law in the University of *Oxford*) de jure Belli D. Speaking of her War with *Spain*, saith, *Age, age, obsiste, Principum fortissima, nam obsistis justissimæ!*

(*c*) Bishop *Jewel*'s Defence of the Apology, p. 16. &c. and *Bilson* of the Difference between Subjection and Rebellion, *ubi supra.*

(*d*) The Acts of Parliament and Convocation that prove this, see at the end of this first Chapter.

It appears she was the rather inclin'd to do this, by a Jealousy of State, for which there was an evident Cause in those Popish Doctrins beforementioned. For she knew that those Kings accounted her and her People to be Hereticks, as well as they did their own Subjects, whom they used so very ill, for no other Cause but because they were of her Religion. And therefore she had Reason to fear, that when they had done their Work in

Dominions, ſo they ought to extend their Care and Compaſſion to their Fellow-Members elſewhere. But whether they ought to concern themſelves for them ſo far as to make War on their account againſt their Kings by whom they are perſecuted, nay whether they may lawfully do this, is a doubt that may deſerve ſome farther Conſideration.

The Chriſtian Emperors ſeem to have made no doubt of this. For they made War, ſometimes for no other Cauſe but that of Religion, againſt ſuch Kings as perſecuted the Chriſtians in Their own Dominions: Sometimes, when they had other Cauſes of War, they preferr'd this before all the reſt; which certainly they would not have done, if it had not weighed much in their Opinion

Juſtinian. Coll. VI. 7. 4. It is for this Cauſe that we have made ſo many Wars in *Africk*, and *Italy*; *viz.* for Orthodoxy in Religion, and for the liberty of our Subjects.

Of them of the Roman Communion there hath been enough already ſaid to

to shew their Opinion of this Cause. They that are for propagating Religion by the Sword, cannot but think it a just Cause of War against any Prince, that he persecutes those of their Religion. We have a notable Instance of this in Cardinal *Pool*, who was one of the moderatest Papists of his age, and yet writ a Book, wherein he prest it most earnestly upon the Emperor *Charles* V. as his Duty, to give over his War with the *Turk*, and to turn his Arms against King *Henry* VIII. for oppressing the Catholicks in his Dominions. Pope *Pius* V. whom they have lately made a Saint, was as earnest with the Emperor *Maximilian*, and with the Kings of *Spain*, *France*, and *Portugal*. He would have them all make War against Queen *Elizabeth*, for persecuting his Catholicks; though she never touch'd one of them, till that Pope had forc'd her to it, by stirring them up to Rebellion against her with his famous Bull of Deprivation. See *Girolamo Catena's* Life of that Pope: And from him *Camden's* Annals, A. D. 1572.

Example in Q. *Elizabeths* time.

§ 39. For the Opinion of Protestants in this matter, we have it sufficiently declared in the Reign of that excellent Queen; who made War first or last against (*a*) all the Popish Princes in her neighborhood, for persecuting the Protestants in their Kingdoms. And herein, she was not only justified by the Pens of our greatest (*b*) Lawyers and (*c*) Divines, but she had also the approbation and assistance of (*d*) our Parliaments and Convocations.

(*a*) *Camdeni* Annales A.D. 1559.

In the Queen's Consultation concerning the demands of Succor for the Protestants of *Scotland* against the *French* faction in that Kingdom, saith *Pessimi Exempli videbatur Principem patrocinium præstare tumultuantibus Principis alterius Subditis: At Impietatis ejusdem Religionis cultoribus deesse.* It seem'd a thing of very ill Example for one Prince to Patronize another Prince's Subjects in Commotion: But it seem'd an Impious thing to be wanting to them of the same Religion. Whereupon the Resolution was taken, *Ejusdem Religionis Professoribus Subveniendum, & Gallos a Scotia exturbandos*: That the Professors of the same Religion must be helpt, and that the *French* must be driven out of *Scotland*.

Ib. A. D. 1562. When she sent the Earl of *Warwick* with an Army into *France*, she declared, she could not but do it, unless she would let the *Guises* do their pleasure with that young King and his Protestant Subjects. *Quodq; Maximum, ne suam Religionem, Securitatem, & Salutem, ignave prodere videretur*: And which was chiefly to be considered, least she should seem basely to betray her own Religion, Security, and Safety.

Ib.

lb. A. D. 1585. After Deliberation whether she should take upon her the Protection of the States against the King of *Spain*, this was her Resolution, *Statuit & Christianæ Pietatis esse, afflictis Belgis ejusdem Religionis Cultoribus subvenire; & Prudentiæ, exitiosas hostium Machinationes prævertendo, populi sibi commissi incolumitati consulere---------Hinc Belgarum patrocinium palam suscepit*---She did Resolve, that it was a duty of Christian Piety to help the Afflicted *Dutch*, being Professors of the same Religion; and that it was a point of Prudence by preventing the destructive designs of their Enemies, to provide for the Safety of her own People---*Thereupon she took upon her publickly the Protection of the* Dutch.

(*b*) *Albericus Gentilis* (her Professor of Law in the University of *Oxford*) de jure Belli D. Speaking of her War with *Spain*, saith, *Age, age, obsiste, Principum fortissima, nam obsistis* Justissime.

(*c*) Bishop *Jewel*'s Defence of the Apology, p. 16. &c. and *Bilson* of the Difference between Subjection and Rebellion, *ubi supra*.

(*d*) The Acts of Parliament and Convocation that prove this, see at the end of this first Chapter.

It appears she was the rather inclin'd to do this, by a Jealousy of State, for which there was an evident Cause in those Popish Doctrins beforementioned. For she knew that those Kings accounted her and her People to be Hereticks, as well as they did their own Subjects, whom they used so very ill, for no other Cause but because they were of her Religion. And therefore she had Reason to fear, that when they had done their Work in

in the deſtroying of that Religion at home in their own Kingdoms, the ſame blind Zeal, acted by the ſame Principles, would bring them hither at laſt for the finiſhing of their Work, or as ſome have worded it ſince, for *the rooting out of the Northern Hereſie*. This was ſuch a danger that if ſhe had ſuffer'd it to grow upon her, it had been a betraying of her Truſt, which ſhe could not have anſwer'd to God. And yet, there being no way to prevent it but by making War upon them in their own Kingdoms, this ought to be accounted a Defenſive War, and that made upon very juſt Cauſe, as hath been (a) already ſhewn.

(a) § 36.

We have Reaſon to hope that all Popiſh Princes are not under the Power of thoſe Principles. But yet, when any of them perſecutes his Subjects that are of another Religion, beyond the ſtanding Laws of his Kingdom, they cannot expect that other Princes, which are of that Suffering Religion, can be ſo confident of this, as to ſtand idle and look on, and not rather when

when they see the danger comes towards them, to defend themselves from it, if they can, by beginning a War in that Prince's Dominions.

§ 40. There is yet a greater Cause for this, when the Suffering Religion is that which is establisht by the Laws of that Kingdom; and yet the King that is sworn to those Laws, and therefore bound to support that Religion, is manifestly practising against it, and endeavours to supplant and oppress and extinguish it. What should other Princes or States that profess the same Religion do in this Case? They see that such a King is set upon the destroying of their Religion. He hath declar'd a hostile mind towards the Professors of it, in judging them not capable of enjoying their Temporal Rights. If he deals thus with his own People, what are Forreigners to expect at his hands? Can they think themselves secure because they are at Peace with him? They cannot, unless Treaties are more Sacred then Laws. Or can

Especially where it is the Religion setled by Law.

can they rely upon his Oath? But they ſee he hath broken it. And therefore they have reaſon to Judge, that either he makes no Conſcience of an Oath, or he thinks Faith is not to be kept with Hereticks, or he hath a Superior that can diſpenſe with him, or that will abſolve him from the guilt of Perjury in ſuch Caſes where Religion is concern'd. In ſhort, they are ſure of his Will to deſtroy them, and cannot be ſure of his Oath to the contrary. Wherein then can they be ſafe? But in his Want of Power to do them hurt? But he will not want Power, if they let him go on, for he is getting it as faſt as he can. He is now ſtrengthning himſelf by thoſe ways that he takes to be abſolute Lord of his own People: And he is now weakning Them, by oppreſſing all thoſe among his People whom he knows to be their Friends and Well-wiſhers. He doth both theſe things together: He daily leſſens their Party, and makes them as many more Enemies, as he gains Men over to his Religion. And if that be ſuch a Religion as pretends to a Right of deſtroying Men of other Religions; knowing this, they know what they are to expect.

When

When this pretended Right is armed with Power, it will certainly fall upon them. So that they must begin before he is ready for them, or else it will be too late to do any thing for their own Preservation.

But as it is necessary for them to do this for themselves, so they ought to do it much the rather for the Sakes of their oppressed Brethren: That, by a timely asserting of their own Right, they may also deliver them from the Evils they suffer at present, and save them from that Destruction which is coming upon them. As it was Just and Necessary on those former Accounts, so this makes it a Pious Cause, and therefore the more Worthy of a true Christian Prince. It has been judg'd so by them whose Names we have in great Veneration. We have the Examples of our own Princes here in *England* in the best of Times since the Reformation: These the Reader may find collected to his Hand, in an excellent Book that hath been lately published. But this may as well be shewn in the Examples of them whom our Princes chose to follow as their Patterns; namely, of the Christians in Primitive times,

An Answer to the Paper delivered by Mr. *Ashton* at his Execution, to the Sheriff of *London*, p. 15, 17, 18, 19.

and especially at the time of the first *Nicene* Council. In these times we find that *Constantine* and *Licinius*, having shar'd the Roman Empire between them, had pass'd a Decree together at *Milan*, for Christianity to be the establish'd Religion. And when afterward *Licinius*, in his part of the Empire, would have oppress'd it contrary to Law; for that cause *Constantine* the Great made War upon him, and in prosecution of that War, thrust him out of his Empire: For which he was so far from being blamed by any Christian in those times, even by those that had been *Licinius*'s Subjects, as most of those Bishops were that sate in the *Nicene* Council, that they all gave him the highest Praises and Encomiums, and Blessed God that had sent them that happy Deliverance by his means. *Eusebius* was *Licinius*'s Subject, and he afterwards writ the Life of *Constantine* the Great, in which they that please may read whole Chapters to this purpose.

Of *Licinius* he tells us, how designing War against his Brother in Law *Constantine*, but not thinking fit yet to declare it, first he fell upon the Christians in his own part of the Empire. *Euseb.* Hist. X. 8. Edit. *Vales.* p. 396. B.

He

He began first with the Bishops, not suffering them to meet in Synods. Vit. *Constant.* l. 51. Then he turned all Christians out of their places at Court. *Euseb.* Hist. X. 8. & Vit. *Constant.* l. 52. Then he turned all Christians out of the Army, and out of Offices. *Euseb.* Hist. Ib. & Vit. *Constant.* l. 54. Then he seiz'd their Estates. Ib. & Ib. At last he fell on the Bishops. *Euseb.* Hist. X. 8. p. 397. B. At first secretly and cunningly, not by himself for fear of *Constantine*, but by his Governors. *Ib.* He killed some Bishops for Praying for *Constantine*. Vit. *Constant.* II. 2. Then *Constantine* begun to stir, *thinking it Holy and Pious to remove one, and save a Multitude.* Vit. *Constant.* II. 3.

The Joy of Christians upon his Victory, see *Euseb.* X. 9. p. 399. C, D. & Vit. *Constant.* II. 19. p. 452. C.

§. 41. As that is a Just War which is made upon Just and sufficient Cause, so the Effect of such a War being a Conquest, is Just, which is the Fourth thing we are to consider. Then it makes a Just Conquest.

Conquest being the way by which a Kingdom or Dominion is taken from a Sovereign Prince [a] against his Will, and by which another Prince gets it into his Possession, as often as this happens, there arises a Question between the two Princes, whether of them hath a Right to that Kingdom or Dominion. [a] See §. 26.

For the deciding of this Question, it must be by such a Law as is common to both the Parties, whose Rights are to be judg'd by it. That cannot be the Law of the Kingdom; for though the Prince that is dis-

seiz'd was obliged by that Law while he was in Possession, yet now it seems he is not; and it never was a Law to the Prince that is now in his place. It must therefore be a Superior Law, such as is common to all Sovereign Princes in their Affairs with one another, and that (as hath been [b] already shewn) is ordinarily the Law of Nations.

[b] See §. 35.

I say Ordinarily, because there is yet a Superior Law, namely, the Law of God; whether written in our Hearts, which we commonly call the Law of Nature; or whether an express Revelation from God, such as was sometimes given to Men in ancient Times; either of these may derogate from the Law of Nations: For this, being made up of Customs observ'd by Princes and States among themselves, is always subject to the will of him that is Lord of Lords and King of Kings. But whether, or how far, this may alter the case, will be considered afterwards; at present we are only to consider what Judgment can be made of it, according to the Law of Nations.

And Conquest giveth Right.

§. 42. By this it seems to be plain, that the Right should go along with the compleat Possession:

So

So as that whereſoever this is once ſettled, whether by length of time, or even ſooner by a general Conſent of the People, there it ought to be preſum'd there is a Right, at leaſt there ought to be no farther Diſpute of it. There ſeems to be the ſame Reaſon for this, that there is for the Law of Nations it ſelf; for if that Law was ordain'd for the Peace of Mankind, this quieting of Poſſeſſion muſt be a part of it, for there can be no end of Wars otherwiſe.

Accordingly we ſee, in a Diſpute between Gods Ancient People the *Jews*, and the Heathen Nations about them, when they differ'd about a Title to Land, it was agreed, that whatſoever Conqueſt they had made on either ſide, they ſhould hold it as being given them by their God. This appears by *Jephtha's* Speech to the King of *Ammon* that had *Chemoſh* for his God; *Wilt not thou poſſeſs that which* Chemoſh *thy God giveth thee to poſſeſs? So whomſoever the Lord our God ſhall drive out from before us, them will we poſſeſs.* Judges XI. 24

That's a plain Evidence, ſo far as it goes. But that is only for part of a Country. But we have as great Proof, that God gives even

Dan. II. 21. even Kingdoms in this manner, *Dan.* II. 21. There *Daniel* having receiv'd a full Account from God, of a Vision which King *Nebuchadnezzar* had seen, and forgot; when he saw what it was, that it contain'd the Fates of Empires that were to grow up successively in the World; he adores the Majesty of God, with an humble Confession of his Prerogative, in these words, *It is He that changes the Times and the Seasons: It is He that removes Kings, and sets up Kings.* Both these ways of Expression signifie one and the same thing. For the *Chaldeans* reckon'd *the Times and the Seasons* by the Years of their Kings Reigns, as we do by the Years of our Kings Reigns at this day. And therefore according to the Change of their Kings, there was also a change of *the Times and the Seasons.*

They were the Changes of Four great Empires, which God here considered, not as being the greatest in the World, but as being those to which his People were to be subject. They were subject successively to those Four great Empires, of the *Babylonians*, the *Persians*, the *Greeks*, and the *Romans.* Those Four are understood in this Vision,

Vision, by *Josephus*, and by all the *Jews* that have written, and by all the Primitive *Christians.* But these words, being so understood, afford us a plain Instance of this Doctrine. *Jos.* Antiq. X. 18. 14.

They shew that it is by way of Conquest that God *puts down one, and sets up another.* For so the *Babylonian* Empire was put down by *Cyrus*, who set up the *Persian* in its stead. The *Persian* Empire was put down in their last King *Darius*, and *Alexander* set up the *Macedon* in its stead. The *Macedon* Kingdom was put down in their last King *Perseus*, and the *Roman* was set up in its stead.

All these Kingdoms were changed by Conquests that they made one upon another. And so it was by those Conquests, that God *removed Kings, and set up Kings.* Which, though we see not yet, that it was any more than by the Permissive Providence of God; yet that was enough to make the People of God become Subjects to those Kings that came in by no other Title.

I do not say but they would have opposed the making of one of those Conquests, namely, that of *Alexander* the Great, because King *Darius*

Darius was then living. But when they saw they could not Oppose, the Conquest being already made, then Just or Unjust, they submitted to it; and having submitted, they were subject without any more Controversie.

Selden. de Jure Nat. & Gent. VI 17. p. 789. *Argent.* 1665. *Ita non solum armis* Alexandri *se, ex Jure quod ei competiit bellico, subdidere; sed imperio ejus dilatando stipendiarios se libenter tunc præbuere; neq; interea de belli causâ, aut Religione dispari, soliciti.* So they not only submitted themselves to *Alexander*'s Arms, on the account of that Right which he had gotten by War; but then they willingly offered themselves to serve under him for the farther Enlargement of his Empire; not troubling themselves the mean while, about the cause of the War, or the Difference of Religion.

Therefore also Just and Religious Kings have reckoned their [a] Conquests among the great things that God wrought by their means; and accounted them as much their Subjects whom they had gain'd by the [b] Sword, as them that were born in their Dominions.

a Thus *David*, *Psal.* LX. 8. & CVIII. 9. Thus *Constantine* the Great stiled himself *TRIUMPHATOR*, and Stamp'd his Coin with the words *VICTORIA GOTHICA, SARMATIA DEVICTA*, &c. *DEBELLATORI GENTIUM BARBARARUM.* Thus likewise the following Christian Emperors.

b *Justinian* Coll. II. 2. 10. We have recovered all *Africk*, and subdued the *Vandals*, and hope to receive of God many yet greater things than these. *Id.* Coll. V. 15. 1. We ordain these Laws to be observed in all Nations under our Government: Some whereof God gave us at first, others he hath added since, and we hope he will still increase.

There-

Therefore also God hath commanded his People to give Obedience to the Kings that came in by Conquest, without any other Title. Nay to such as were capable of no other, for they were [a] forbidden *to set a Stranger over them, which was not their Brother.* And yet they were Subjects to Strangers, such as *Cushan*, *Eglon*, and *Jabin*, &c. And in *Zedekia*'s time God [b] commanded them upon pain of Death to become the Subjects of *Nebuchadnezzar*, who had made a full Conquest over them, and held their Lawful King *Jeconia* then in Captivity. This is plainly the Doctrine of that [c] Convocation which sate in the beginning of King *James* I. his time; and therefore it cannot but be very Unjust to charge any Man with Singularity or Novelty, that goes in the Steps of so many and so great Authors.

[a] Deut. XVII. 15.

[b] Jer. XXI. 8, 9.

[c] Convocation Book, l. 28. &c.

§. 43. Yet it cannot be denied that many others, and those also Men of great Learning and Judgment, have not gone on so smooth with this Doctrine; they think it gives too much to the Success of a War, without due regard to the Cause on which it was made. But it is the Cause that makes a War either Just

Doubted when the Cause is certainly unjust

or Unjuſt: And though the Events of both theſe may be the ſame, for either of them may end in a Conqueſt, by which God *puts down one, and ſets up another*; yet whether this be Juſtly obtained, or Unjuſtly, it makes a great Difference.

For whereas the latter happens through the Judgment of God, for the Puniſhing of a Sinful Prince or Nation, it doth not appear that he that is the Inſtrument of this, acquires any Right by it; more that thoſe Pirates or Robbers, who are Inſtrumental likewiſe, in the Puniſhing of Inferior Tranſgreſſors. And if God gives no Right to him whom he ſets up, then it remains ſtill in him whom he has put down: So that he is rightful King ſtill; though he is out of Poſſeſſion, and the other is but an Uſurper that is in Poſſeſſion.

In this Caſe, if the Uſurper has no Pretence of Right, no Preſcription of time, no Conſent of the People, but only an unjuſt Poſſeſſion; how a Subject ought to behave himſelf towards him, even this is a *DIFFICULT* [a] *QUESTION*, in a moſt learned Man's Judgment: Who yet [b] Judges, that even

[a] *Pufend.* de Jur. Nat. & Gent. VII. 8, 9.

[b] *Ib.* VII. 8. 10.

even here, it may be not only Lawful, but a Duty, to obey him that is in Poſſeſſion; when the Legal King is reduced to that paſs, that he can no more do the Office of a King to his People. For (ſaith he) the Kingdom cannot be without Government, and if the Uſurper preſerves the Kingdom, a Lover of his Country ought not (as things are) to give any farther cauſe of trouble by his unprofitable Contumacy. But then put caſe the Uſurper hath Sworn the People to him, and doth the Office of a King, which (it ſeems) in his Judgment doth not take away the Duty that is owing to that former King; how one can pay his Duty to both the expel'd Legal King, and to ſuch an Uſurper. This our Author ſays is *A MOST DIFFICULT SCRUPLE*; and ſo it ſeems, both by his, and our moſt Learned Caſuiſt's handling the Queſtion, where they ſhew how far one ought, and how far one ought not, to comply with ſuch an Uſurpation. *Sanderſon* Obl. Conſc. V. 17, &c.

But theſe Difficulties are only in caſe the Poſſeſſion is obtained by a War that was certainly unjuſt; for if the Cauſe of the War was but doubtful, and a Conqueſt

follows upon it, there is no place for these Difficulties: Much less where the cause of War was certainly Just, for if a Conquest follows upon this, it gives a Right, and then there is no Usurpation.

No doubt when the Cause is certainly Just.

§. 44. We judge of doubtful things by those that are certain, and therefore to speak of these first: Being certain that the Cause of War is Just, we are as certain of the Effect of it. So that if it be suffer'd to run on to a Conquest, this also is Just; and we ought to look upon it as the Execution of a Sentence of God, by which, acting as a Judge in the way of Justice, *he puts down one, and sets up another.* And this being follow'd by the [a] Peoples attorning their Allegiance, the Right is as fully [b] settled in him that comes in in this manner, as if he came in by the ordinary way of Succession.

a *Horn.* de Civ. II. 9. 2. (as quoted by *Pufend.* Jur. Nat. & Gent. VII. 7.

3. If one Prince overcomes another that unjustly provokes him, and hath deserv'd it by other Injuries, he hath *forthwith* a Lawful Power against him whom he hath so overcome; and is not to stay for the Consent of the People whom he hath brought under his Dominion. *Pufendorf* there says, that where there was a Just Cause of Invasion, there the getting of a Country into Possession, makes for the obtaining of the Dominion thereof; and is confirm'd by the Consent of the Subjects, and their following Covenant. But that till this is had, the State of War continues, and there is no Obligation, nor Faith, and so no Dominion.

Dudley

Dudley Digs of the Unlawfulness of Subjects taking up Arms, *&c.* §. 4. p. 132. Puts an Objection, That if the Conqueror comes in by Force, he may be turn'd out by the same Title. In Answer to it, he saith, *de Jure* he cannot——For though Conquest be a name of greater Strength only, and be not it self a Right, yet it is the Mother of it; because when the People are in his Power,——they pass their Consent to be his Faithful Subjects,——and this subsequent Act gives him a *LAWFUL RIGHT TO THE MONARCHY.*

b *Andrews* on the Commandements. *Lond.* 1650. p. 331. Kingdoms——when they are obtained by a Just Conquest, are not to be accounted Tyrannical, because they are Just; for there may be *A JUST TITLE BY CONQUEST,* when the War is upon Just Grounds.

Ib. p. 461. Besides those original ways of Propriety, there is also a Propriety by the Right of War, or Law of Arms; because the Magistrate hath Power and Authority——to use his Sword abroad as well as at home, and may punish a Foreign Enemy in some cases, even by expelling him his Land,——and in this Right of Propriety, he hath not only *Dominium,* the Lordship and Dominion over it, but *Usum,* the use also.

Sanderson. Oblig. Consc. VII. 17. Speaking of them that come into Government *vi & armis,* saith, they come in either by meer Usurpation without any pretence of Right, or by making Just War upon their Enemies by whom they are unjustly provoked.

Ib. VII. 24. He saith, *BY THE LAW OF NATIONS* that Power of a Prince is Just, which is either gotten by Just War, or which by long Possession is confirm'd as by a Right of Prescription.

Bramhall's Works, p. 527. Those whose Predecessors, *OR THEMSELVES,* have attain'd to Sovereignty by the Sword, by a Conquest in a Just War, claim immediately from God.

Ib. p. 537. Just Conquest in a Lawful War acquireth good Right of Dominion, as well as Possession.—— Neither is this to alter the Course of Nature, or frustrate the Tenor of Law, but it self is *THE LAW OF NATURE AND NATIONS.*

§. 45. The Right of a Conquest being so clear when the Justice of the War is certain, there is the less to be said of the Case when there is

A doubtful Cause is enough for the Prince in Possession.

is a doubtful Cauſe of War. If the Effect of ſuch a War be a Conqueſt, it is evident that the Right of this Conqueſt ought to be judged of very favourably; for he that hath Conquered is now in Poſſeſſion. And therefore according to that common Saying, which is moſt true in this caſe, He hath Eleven Points of the Law. But beſide, if (as it commonly happens) one of the two muſt be obey'd, either he that is driven out, or he that comes in his ſtead; the Matter being ſo doubtful between them; then, as it ſeems moſt reaſonable that Obedience ſhould be paid to the latter, as having all the Advantage of Law on his ſide, ſo it is plainly neceſſary for the Peace and Tranquility of the Nation, which cannot well be ſettled otherwiſe. Thus it was judged by our great [a] Caſuiſt, in a Queſtion of Hereditary Right between two or more Competitors; that as long as they are yet in Diſpute with one another, *It is the Duty of one that loves his Country, to obey him that is in Poſſeſſion of the Kingdom, as his Lawful Prince.*

[a] *Sanderſon.* de Oblig. Conſc. V. 15. Where, among the Examples of ſuch Competitors, he mentions that very ſharp and long Diſpute that was between the two Houſes of *York* and *Lancaſter* concerning the Succeſſion of this Kingdom; in which, according to his Judgment, a good Patriot ought to have obeyed the King that was in Poſſeſſion. And thus he concludes, *IT IS CERTAIN BY*

BY THE CONSENT OF ALL NATIONS ALL THE WORLD OVER, that the Laws every where (not only that of 11 *Hen.* VII. but the Laws *EVERY WHERE*) *have favour'd him that is in Possession; and in such Cases that Famous Sentence of the Lawyers has always carried it,* In rebus dubiis melior est conditio possidentis.

§. 46. Upon this Ground it has been [a] commonly judg'd by the Law of Nations, that the Right goes along with the Possession. Of this we see Examples in every Revolution that happens in this or any other Kingdom. When a King is driven out with any colour of Right, the Neighbouring Princes and States make no great Difficulty of applying themselves to him that comes in his stead; wherein though perhaps they too much follow their own Interest, yet it cannot be said that what they do is against the Law of Nations. But what should Subjects do in this Case? Of this we have an Example in the People of God, when they pass'd successively under the Yoak of those four great Monarchs that were [b] formerly mention'd. It is likely that each of those Kings that got the Power over them, first declar'd the Cause of the War that he made upon their former Lords. In that Case, though they could not judge of the Cause, whether it was Just or Unjust, yet

[a] See §. 42. The People ought to be satisfied with this.

[b] See §. 42.

is a doubtful Cause of War. If the Effect of such a War be a Conquest, it is evident that the Right of this Conquest ought to be judged of very favourably; for he that hath Conquered is now in Possession. And therefore according to that common Saying, which is most true in this case, He hath Eleven Points of the Law. But beside, if (as it commonly happens) one of the two must be obey'd, either he that is driven out, or he that comes in his stead; the Matter being so doubtful between them; then, as it seems most reasonable that Obedience should be paid to the latter, as having all the Advantage of Law on his side, so it is plainly necessary for the Peace and Tranquility of the Nation, which cannot well be settled otherwise. Thus it was judged by our great [a] Casuist, in a Question of Hereditary Right between two or more Competitors; that as long as they are yet in Dispute with one another, *It is the Duty of one that loves his Country, to obey him that is in Possession of the Kingdom, as his Lawful Prince.*

[a] *Sanderson.* de Oblig. Consc. V. 15. Where, among the Examples of such Competitors, he mentions that very sharp and long Dispute that was between the two Houses of *York* and *Lancaster* concerning the Succession of this Kingdom; in which, according to his Judgment, a good Patriot ought to have obeyed the King that was in Possession. And thus he concludes, *IT IS CERTAIN*

BY

BY THE CONSENT OF ALL NATIONS ALL THE WORLD OVER, that the Laws every where (not only that of 11 *Hen.* VII. but the Laws *EVERY WHERE*) *have favour'd him that is in Possession; and in such Cases that Famous Sentence of the Lawyers has always carried it,* In rebus dubiis melior est conditio possidentis.

§. 46. Upon this Ground it has been [a] commonly judg'd by the Law of Nations, that the Right goes along with the Possession. Of this we see Examples in every Revolution that happens in this or any other Kingdom. When a King is driven out with any colour of Right, the Neighbouring Princes and States make no great Difficulty of applying themselves to him that comes in his stead; wherein though perhaps they too much follow their own Interest, yet it cannot be said that what they do is against the Law of Nations. But what should Subjects do in this Case? Of this we have an Example in the People of God, when they past successively under the Yoak of those four great Monarchs that were [b] formerly mention'd. It is likely that each of those Kings that got the Power over them, first declar'd the Cause of the War that he made upon their former Lords. In that Case, though they could not judge of the Cause, whether it was Just or Unjust, yet

[a] See §. 42. The People ought to be satisfied with this.

[b] See §. 42.

yet no doubt they did well in adhering to him that was in preſent Poſſeſſion. Thus we ſee they did to *Darius*, till ſuch time as they found themſelves in the Power of the Enemy: but then, the ſame Reaſon being turn'd on his ſide, they thought it neceſſary to preſerve themſelves and their Country, by yielding to him, who had a Juſt Cauſe of War for ought they knew, and ſo far as they could judge by the Succeſs, it had Gods Approbation.

Albericus Gentilis de Jure Belli III. f. C.

blames *Lucan* for calling *Alexander Orbis Terrarum Prædonem*. For (ſaith he) *Alexander* declar'd a Juſt Cauſe of War; and when he had the Victory, that then he might poſſeſs himſelf of his Enemies Dominions, is *MORE THEN A RECEIVED OPINION*; *Alexander*'s Reaſons are expreſs'd in his Epiſtle to *Darius*, which is in *Arrian* Exped. *Alex.* II.

To a People that are in ſuch a caſe, it is no ſmall Comfort, that whatſoever doubt they may have of the Cauſe of the War, yet there is no doubt at all concerning their Duty. There is nothing more certain than this, that they ought to preſerve themſelves, if they can do it Lawfully. But it is Lawful for them to forbear Fighting, when they are unſatisfied of the Cauſe: And if their own Prince is not able to protect them, it is lawful for

for them to take protection elsewhere. Therefore, in Case of Invasion for a Cause which is just for ought they know, it is lawful for them to live quietly under the Invader: nay it is not only Lawful, but their Duty (as hath been (a) already shewn,) to acquiesce in his Government, when he comes to be in Possession.

(a) See § 45.

§. 47. But when they are certain that a War is made upon their Prince for just Cause; that is, when they plainly see he hath drawn it upon himself, by making it (b) not only Lawful, but Necessary for another Prince to invade him for his own Preservation; What are the People to do in this Case? No doubt they ought first to have a care of their Souls, and not to endanger them by being Partakers of other Men's Sins. They cannot but see, that, by engaging in the War, they abet their own Prince in his injustice; though not in his doing the Injury, yet in continuing what is done, and in his not giving Reparation. And therefore they are subject to the same Punishment with him. Nay their Condition is worse then his: For he may shift for himself, and leave them and all they

But much more with a certain just Cause.

(b) See § 36.

have to be a Prey to the Enemy: Who by right of War may do with them and theirs what he pleases. It is therefore certainly their wisest Course to keep themselves free from all Offence, both towards God and towards Man: That having had no part in the Cause of the War, they may not be involv'd in the ill Consequences of it. And this they have reason to expect from a Genetous Enemy, that he will not use the Right (*a*) of War against them that desire to live peaceably. Much more, if he hath declar'd he would not hurt them that should not resist him, they have Reason to trust a just Prince upon his Declaration. And if he went so far as to declare, that upon their Submission they should enjoy the benefit of their own Laws; then, although it should come to a Conquest, they may reasonably expect to be in no worse condition under the Stranger, then they were under their own Prince: They have his Faith engaged to them for this.

(*a*) See Grot. de Jure B. & P. III. 13. 4. and 15. 12.

But if the Stranger declares he makes War in defence of another King's Subjects, as (we have (*b*) shewn,) he may lawfully do, when he finds

(*b*) See §. 36.

finds himself in danger of suffering by that King's Oppression of his own People; in this Case, they are first to consider, whether it is a meer pretence, or whether there be a reall ground for his Declaration. If they find there is a just and sufficient ground for it, they see in effect, that it is through Them that he is struck at; and therefore the War is not so much His, as their own. It is true according to our (*a*) Doctrine, they are united to their Prince as a Wife to her Husband; so that they can no more right themselves by Arms, then she can sue her Husband while the bond of Mariage continues. Yet as, when her Husband uses her extremely ill, she may complain of him to the Judge, who, if he see's Cause, may dissolve the Mariage by his Sentence; and after that she is at liberty to sue him as well as any other Man: So a People may cry to the Lord by Reason of their Oppression, and he may raise them up a Deliverer, that shall take the Government into his hands; (a Foreign Prince may lawfully do this, as hath been (*b*) already shewn;) and then they are not only free to defend themselves,

(*a*) See §. 25.

Jud. II. 18. and IV. 3.

Jud. III. 9, 15

(*b*) §. 36.

but are oblig'd to joyn with Him, against their Oppressor.

For the People's Union with their Prince; though it cannot be dissolv'd but by a Sentence from God; yet by the Prince's own Act it may be so loosend, that it may be next to dissolution. The Laws are the Bond of Union between Prince and People: By these, as the Prince holds his Prerogative, so do the People their just Rights and Liberties. Now suppose a People so Oppress by their Prince, that their Laws being trodden under foot, they are in danger of losing not only their Temporal Rights, but, as much as can be, their Eternal: In this Case, there's no doubt that the Oppressor and the Oppressed become two Parties, being distinguisht by the most different Interests that can be in the World.

When the Cause is for their Sake, it is to them not a Conquest, but a Deliverance.

§. 48. In this Case, if another Prince, having a just Cause of War, is so far Concern'd for such a People, as to take them into his Care, and to declare that he makes the War for their Deliverance: The Effect of this War, though We may call it a Conquest, because it has Resemblance of it, yet it cannot be properly so in any respect; whether we consider

conſider the Prince on whom it is made, or the People that have their Deliverance by it.

As to Him, it is properly an (*a*) *Eviction* by the juſt Sentence of God; who thus put's him out of a Truſt, that he abus'd to the hurt of them for whoſe ſakes it was given him. And as to the People, it cannot be a Conqueſt over them, who are ſo far from having the War made againſt them, that it was made chiefly for their ſakes. If there be any pretence of a Conqueſt, it is only over them that were their Oppreſſors. But as for them that were Oppreſt, it makes altogether on their ſide; So that They are the Conquerors in Effect, for they have the Benefit of it: And he that obtain'd this for them hath a much more glorious Title then that of a Conqueror, for he is properly their RESTORER and DELIVERER.

(*a*) *Calvin's* Law-Dictionary has this ſenſe of the word *Evictio*; *eſt ejus rei, quam Adverſarius legitimo jure acquiſierat, per Judicem recuperatio.* In this Senſe it ſeems to have been us'd in ſpeaking of the fall of *Maxentius*; whereof ſee the following Note.

Thus it has been always judg'd by the People of God, as it were eaſy to ſhew in many Inſtances; but very few may ſuffice, when there is none to be produc'd on the Contrary.

For that (*b*) former Doctrin, We have the Example of the *Jewiſh* Church in the Time (*b*) § 46 47.

Time of *Alexander* the Great. When by his Victory at *Iſſus*, he had driven *Darius* out of *Syria*, the *Jews* yielded to him. They had had no part in the War. Even for that Reaſon, he did not uſe the Right of Conqueſt upon them. He requir'd nothing more at their hands, but that they ſhould pay him the ſame Duties that they had paid to *Darius*, and that as many of them as pleas'd ſhould ſerve him in his Wars: Both which Conditions they accepted, and perform'd, as if they had been his Natural Subjects.

Much more in that Caſe of *Cyrus*'s Conqueſt. When he had taken *Babylon*, where the *Jews* were in a ſtate of Captivity; did he uſe the Right of Conqueſt over them? Did he ſell them for Slaves, or take away what they had? So far he was from it, that he reſtor'd them from their Captivity. Having underſtood from their Prophets, that God had given him thoſe Succeſſes for their ſakes; he did not look upon them as a Conquer'd People, but as them whom God ſent Him to deliver: And treated them accordingly, with all Poſſible kindneſs and obligation.

But

But there are no Examples more to be obſerv'd by us *Chriſtians*, then thoſe that happen'd in the Time of *Conſtantin* the Great; both becauſe he was the firſt *Chriſtian* Emperor, and becauſe the firſt General Council was held in his Reign. Now in thoſe times of the pureſt Chriſtianity, we find not that in any of thoſe Countries which he had gain'd by the Sword, any *Chriſtian* had the leaſt ſcruple concerning his Right to the Government: nay they welcom'd him to it with all Demonſtrations of Joy. And though he had acquir'd a Title to it by the Expulſion of thoſe Princes that had been their Oppreſſors, and ſo might have taken it upon him as a Conqueror, which Title he ſeem'd to (*a*) affect upon other Occaſions; yet where he had declar'd his Cauſe of War to be for a Peoples Deliverance, this being ſo juſt and ſo honorable a Title, he us'd it, and would have no other, in all his Inſcriptions.

(*a*) See §. 42. Note *a*.

In memory of his Victory over *Maxentius*, the day on which it happen'd being the 27*th*. of *October* was ſtyl'd in the *Chriſtian Roman* Calendar *Evictio Tyranni*, what that means See in the former Note. On the Arch which was ſet up in memory of it, and which is yet to be ſeen at *Rome*, there is Inſcrib'd CONSTANTINO MAXIMO *&c.* LIBERATORI URBIS, FUNDATORI

TORI QUIETIS. See *Grut.* Inscr. p. 282. In his Coins he is call'd RESTITUTOR LIBERTATIS, CONSERVATOR URBIS SUÆ, and AFRICÆ SUÆ *&c.* See *Mediobarbus.* Likewise upon the overthrow of *Maximinus*, the joy and thanksgiving of *Christians* for their Deliverance, See in *Euseb.* hist. X. 1 and 2. And see his Panegyric to *Paulinus*, Bishop of *Tyre*, esp. p. 378. of *Valesius* Edition, and remember that both these were Subjects of that Emperor *Maximinus.* Of the joy of *Christians* upon their Deliverance from the Tyranny of *Licinius* enough hath been said in §. 40.

There might be given many other Instances of this kind: But these are enough, to shew that one and the same Person may Conquer and drive out an oppressing Prince, and yet, as to the Subjects of that Prince, he may have no Right of Conquest; but that which is much better, the best that can be now in the World, that is, the Right of a RESTORER & DELIVERER of His People.

Acts of Parliament and Convocation in Queen *Elizabeth*'s time, by which it appears (as hath been already said in §. 39.) that, in the Wars that She made on the account of Religion, She had both their approbation and assistance.

V°. *Eliz.* A. D. 1562. In the Convocation that fram'd the 39 Articles. The Prelates and Clergy being Lawfully congregated, calling to remembrance &c. and finally pondering the inestimable charges sustain'd by Your Highness in reducing the Realm of Scotland to Unity and Concord; as also in procuring as much as in Your Highness lies, by all kind of Godly and prudent means, the abateing of all hostility and Persecution within the Realm of France, practis'd and used against the Professors of God's holy Gospel and true Religion; hath given and granted &c. A Bill of Subsidy, in *Rastall*'s Collection II. p. 84. Edit. *Lond.* 1618.

XIII.

XIIIo. *Eliz.* A. D. 1571. When the Parliament enjoyn'd the ſubſcribing of thoſe Articles. **The Prelates and Clergy &c. conſidering farther the ineſtimable Charges ſuſtain'd by Your Highneſs in procuring, —— by all Godly and prudent means, the abating of all Hoſtility and Perſecution within the Realm of France, and in other Places, practis'd againſt the Profeſſors of God's holy Goſpel and true Religion; have given and granted** as follows, *Raſtall* lb. p. 167.

XLIIIo. *Eliz.* A. D. 1601. In her Convocation, a Subſidy was granted by the Clergy, with this reaſon expreſt, **For who ſhould have a more lively ſence of Your Majeſty's princely Courage and Conſtancy, in advancing and protecting the free profeſſion of the Goſpel within and without Your Majeſty's Dominions, then the Clergy.** *Raſtall* lb. p. 520.

XXXVo. *Eliz.* There was a Subſidy granted by the Temporalty, together with an acknowledgment of **the Great Honor which it hath pleas'd God to give Your Majeſty abroad (in France and Flanders) in making You the Principal Support of all juſt and Religious Cauſes againſt Uſurpers: ſo that this Iſland hath in Your Majeſty's days been a Pray and Sanctuary to diſtreſſed States and Kingdoms, and is a Bulwark againſt the Tirannies of mighty and uſurping Potentates.** *Raſtall* lb. p. 421.

XXXIXo. *Eliz.* There is another Subſidy granted to that Queen by the Temporalty, almoſt in the ſame words. *Raſtall* lb. p. 479.

The End of the firſt Part.

A CATALOGUE OF BOOKS:

Printed for *T. Jones*, at the *White-Horse*, without *Temple-Bar*, 1691.

A Letter to Dr *Sherlock*, in Vindication of his late Book, Intituled *The Case of Allegiance.*

A Sermon preach'd before the Queen, *January* the 30*th.* being the Day of the Martyrdom of King *Charles* I. By the Bishop of S. *Asaph.*

There is newly Publish'd a Choice Collection of Ayrs for 2 and 3 Treble Flutes. Compos'd by the best Masters of Musick. Price 2. shillings 6. p.

228067